

SERVICE DATE - AUGUST 27, 2004

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-33 (Sub-No. 187X)

UNION PACIFIC RAILROAD COMPANY—ABANDONMENT EXEMPTION—  
IN BOONE AND DALLAS COUNTIES, IA

Decided: August 26, 2004

On January 13, 2003, a decision and notice of interim trail use or abandonment (NITU) was served authorizing a 180-day period for the Iowa Natural Heritage Foundation (INHF), on behalf of the Boone and Dallas County Conservation Boards, the City of Perry, and the Iowa Trails Council, to negotiate an interim trail use/rail banking agreement with the Union Pacific Railroad Company (UP) for approximately 12.2 miles of a line of railroad known as the Ankeny Subdivision, extending from milepost 341.1 near Slater to the end of the line at milepost 353.5 near Woodward (Equation  $346.4=346.6$ ) in Boone and Dallas Counties, IA. The negotiating period under the NITU was scheduled to expire on July 12, 2003, but was extended by decisions served on August 15, 2003, and February 6, 2004. The latest extension expired on August 10, 2004.

On August 16, 2004, INHF filed a request for an extension of the negotiating period until January 10, 2005. INHF states that it is continuing to negotiate with UP, but that more time is needed to finalize negotiations. By letter dated August 11, 2004, UP advised that it has received a request from INHF requesting an extension of the negotiating period. UP states that it supports INHF's request and is willing to continue the negotiations.<sup>1</sup>

Where, as here, the carrier has not consummated the abandonment at the end of the previously imposed negotiating period and is willing to continue trail use negotiations, the Board retains jurisdiction and the NITU negotiating period may be extended. Under the circumstances, an extension of the negotiating period is warranted. See *Birt v. STB*, 90 F.3d 580, 588-90 (D.C. Cir. 1996); *Grantwood Village v. Missouri Pac. R.R. Co.*, 95 F.3d 654, 659 (8th Cir. 1996), cert. denied, 519 U.S. 1149 (1997). An extension of time will promote the establishment of trails and rail banking consistent with the National Trails System Act, 16 U.S.C. 1247(d). Accordingly, the negotiating period will be extended to January 10, 2005.

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<sup>1</sup> The parties agree that UP may salvage the decking on the Des Moines River Bridge but that UP will leave the bridge piers in place. UP represents that maintaining the piers provides a means of reestablishing rail service on the line should the need arise.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request to extend the NITU negotiating period is granted.
2. The NITU negotiating period is extended until January 10, 2005.
3. This decision is effective on the date of service.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary